

REPORT OF THE FINANCE LABOR SUBCOMMITTEE

October 12, 2006

The Honorable,
The Board of Commissioners of Cook County

ATTENDANCE

Present: Chairman Murphy, Vice Chairman Moreno, Commissioners Butler, Gorman, Hansen, Maldonado and Sims (7)

Absent: None (0)

Also Present: Commissioners Moreno and Suffredin; Ray Harris, Director of Intergovernmental Affairs, Council 31, AFSCME

Ladies and Gentlemen:

Your Finance Labor Subcommittee of the Board of Commissioners of Cook County met pursuant to notice on Thursday, October 12, 2006, at the hour of 10:00 A.M. in the Board Room, Room 569, County Building, 118 North Clark Street, Chicago, Illinois.

Your Subcommittee has considered the following item and, upon adoption of this report, the recommendations are as follows:

281772 COOK COUNTY ASSISTANT PUBLIC DEFENDER COLLECTIVE BARGAINING ORDINANCE (PROPOSED ORDINANCE). Submitting a Proposed Ordinance sponsored by Larry Suffredin, County Commissioner; Co-Sponsored by Earlean Collins, Roberto Maldonado, Joan Patricia Murphy and Deborah Sims, County Commissioners.

The following is a synopsis of the Proposed Ordinance:

PROPOSED ORDINANCE

COOK COUNTY ASSISTANT PUBLIC DEFENDER COLLECTIVE BARGAINING ORDINANCE

The County of Cook, Illinois is a home rule unit of local government pursuant to Article VII, Section 6(a) of the 1970 Illinois Constitution, and pursuant to the authority therein granted, may exercise any power and perform any function pertaining to its government and affairs.

BE IT ORDAINED BY THE COOK COUNTY BOARD OF COMMISSIONERS:

ARTICLE I

- Section 1. Short Title
- Section 2. Purpose
- Section 3. Right to Collective Bargaining
- Section 4. Management Rights
- Section 5. Collective Bargaining Defined
- Section 6. Grievance Procedure
- Section 7. Employee Rights

ARTICLE II

Section 1. Effective Date: This Ordinance shall take effect immediately upon adoption.

***Referred to the Committee on Finance Labor Subcommittee on 09/19/06.**

Commissioner Gorman inquired as to what prompted the creation of this Item.

Commissioner Suffredin replied: There has been a series of bills in Springfield that the County has been involved in relating to attempts by labor organizations to expand the number of lawyer groups such as State's Attorneys and others that might come under the State Public Labor Relations Act. After much discussion with the appropriate unions, we came to the conclusion that their real goal was to solidify the bargaining position for the group they already represent, which is the assistant public defenders. The public defenders' salaries have risen higher than those of many of the County's other lawyers, for example those of the Public Guardian's Office, the State's Attorney's Office and other lawyers working for the County. By adopting this Item we are continuing the labor relations and collective bargaining that we have already established for the assistant public defenders. We also will be establishing the floor as to what the salaries should be for attorneys in other offices. That will open up discussion when we are working on the budget to ensure there is parity in compensation among all the people who provide legal services for the County as career attorneys.

Commissioner Gorman inquired as to the bargaining unit for the assistant public defenders.

Commissioner Suffredin replied that AFSCME is the assistant public defenders' union.

Commissioner Peraica asked Commissioner Suffredin to clarify the Illinois Supreme Court decision that determined that assistant state's attorneys have no right to organize.

Commissioner Suffredin replied: It was not a decision, but rather it was dictum that deals with this issue. States attorneys in Will County are unionized. The Illinois Supreme Court ruled that state's attorneys were not included and they had indices of being managerial personnel because of the decisions that they are able to make on behalf of the State's Attorney. But the Court did not come to the conclusion that state's attorneys could not unionize. The decision asserted that state's attorneys are not covered by the State Public Labor Relations Act. What we are doing here by Home Rule is taking all of the actions of the County Board and putting them into an ordinance so that people will understand what it is that we have agreed to for the assistant public defenders.

Commissioner Peraica inquired whether there is a representative of AFSCME or the Public Defender's Office present to comment on the proposed Ordinance.

Ray Harris, Director of Intergovernmental Affairs, Council 31, AFSCME, replied: AFSCME has represented the Public Defender's Office for twenty years. Our main interest is to codify the relationship we currently have with Cook County Board and the Cook County Board President. The proposed Ordinance continues the status we have had for twenty years as the sole bargaining representative for the 450 assistant public defenders that we represent. Also, the Public Defender, Ed Burnett, has stated on the record that he is wholeheartedly in favor of this Ordinance.

Commissioner Peraica inquired what type of agreement AFSCME has with the County securing its position as the sole collective bargaining unit of the assistant public defenders.

Mr. Harris replied: The State Public Labor Relations Act passed in 1983 delineated the Legislature's intentions regarding public employees. A series of Illinois Supreme Court decisions ruled that certain attorneys, such as the assistant state's attorneys and city corporation counsels, were no longer covered under the State Public Labor Relations Act. AFSCME went to President Stroger, concerned about the Supreme Court's decisions, and President Stroger provided a written agreement recognizing AFSCME as the sole bargaining unit for the assistant public defenders for the duration of his term in office.

Commissioner Hansen requested clarification from the State's Attorney's Office.

Patrick Driscoll, Deputy State's Attorney, Chief, Civil Actions Bureau, replied: The basis upon which the Illinois Supreme Court asserted that the assistant state's attorneys were not covered under the State Public Labor Relations Act is that state's attorneys stand in the stead of the actual State's Attorney, and have managerial duties and capacities that entail exercising significant discretion.

Commissioner Hansen inquired whether this was true of assistant public defenders as well.

Mr. Driscoll replied in the affirmative.

Commissioner Hansen asked whether there is a prohibition given by the Illinois Supreme Court as to the ability of the State's Attorney's Office or the Public Defender's Office to unionize.

Mr. Driscoll replied that there is no prohibition relating to assistant public defenders, and that he is unsure regarding the State's Attorney's Office.

Commissioner Hansen voiced concern that this proposal might formalize the already existing disparity in pay between the attorneys employed by the Public Defender's Office and those employed in the County elsewhere.

Mr. Driscoll replied that the Ordinance only defines collective bargaining; it does not set pay levels.

Commissioner Hansen inquired as to the termination date of the assistant public defender's collective bargaining agreement.

Mr. Harris replied that two months ago a three-year agreement was reached between the County and the assistant public defenders.

Chairman Murphy stated that the purpose of this codification is to further the process of obtaining pay parity for all of the other attorneys employed by the County.

Commissioner Butler inquired why the assistant state's attorneys could not be included in this proposed Ordinance.

Commissioner Suffredin stated: Unionizing the State's Attorney's Office is a separate issue; the goal of this Ordinance is to codify a pay scale that can then be referred to during the budget process to obtain pay parity for other attorneys employed by the County.

Commissioner Gorman voiced concern that this Ordinance might be tying the County's hands.

Mr. Driscoll replied that the Ordinance does not set any pay scale.

Commissioner Sims inquired whether the assistant state's attorneys could be included in this collective bargaining, and pay the "Fair Share." (When a union organizes a work place everyone benefits, not just the union members. A "Fair Share" is the fee, which is typically less than union dues that the non-union members pay as a result of receiving the benefits the union achieved.)

Mr. Harris replied that AFSCMI Council 31 does not have the authority to represent the assistant state's attorneys.

Commissioner Maldonado noted that the reason the assistant state's attorneys are not unionized is because the former State's Attorney, Jack O'Malley, opposed their unionization and won in the Illinois Supreme Court.

Commissioner Maldonado, seconded by Commissioner Butler, moved the approval of Communication Number 281772. The motion carried. Commissioner Hansen voted present.

Commissioner Butler moved to adjourn the meeting, seconded by Commissioner Sims. The motion carried and the meeting was adjourned.

Respectfully submitted,
Finance Labor Subcommittee

Joan Patricia Murphy, Chairman

Attest:

Michelle Harris, Secretary